



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
6950 Americana Parkway, Suite H  
Reynoldsburg, Ohio 43068-4127

(614) 469-6923 / FAX (614) 469-6919  
December 10, 2002

Louis F. Sharpe, Agent  
Predevelopment Ltd.  
2335 Second Street  
Cuyahoga Falls, OH 44221

Dear Mr. Sharpe:

We appreciate your meeting with us on October 18, 2002, at Long Point, Kelleys Island, Erie County, Ohio, to discuss the Federally threatened Lake Erie water snake (*Nerodia sipedon insularum*) and the proposed Predevelopment Ltd. development on Long Point. As you know, the Lake Erie water snake (LEWS) became listed on August 30, 1999 as Federally threatened under the Endangered Species Act (ESA). In a September 20, 2002 letter, we notified your client, Predevelopment Ltd., that Long Point contains LEWS and habitat important to their long-term survival.

We appreciate the opportunity to see the Long Point property first hand and discuss the summer and winter habitat needs of LEWS. Upon reviewing the project site and the site plans that were received in this office on November 7, 2002, we understand that your client's proposed project is to construct one 2000 sq. ft. summer home along with associated amenities including a 2000 sq. ft. septic system, a 1000 sq. ft. gravel parking area, and a dock.

It is our opinion that the proposed construction on Long Point is likely to result in take of LEWS and their habitat. Based on the known distribution of LEWS on Long Point it is the professional opinion of the U.S. Fish and Wildlife Service (Service) that the proposed construction activities will destroy LEWS winter habitat and constitute take of LEWS through habitat modifications. The population size of LEWS on Long Point has been fairly stable since 1980 indicating that the LEWS population on Long Point may be at or near carrying capacity. LEWS displaced by clearing and construction activities may be lost through competition for shelter in adjoining areas on this narrow island peninsula. LEWS, although they are generally able to adapt to human activities, are unable to expand territories into new areas because they are only found on islands in the Western basin of Lake Erie. Further alteration of habitat decreases the available cover essential to evade predators and to hibernate in during the winter.

Section 9(a)(1)(B) of the ESA prohibits "take" of endangered and threatened wildlife, unless the take is authorized by a permit issued under the ESA. Section 3(18) of the ESA defines the term take as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Harm is further defined in the regulations (50 C.F.R. 17.3) to

include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering".

Section 10(a)(1)(B) of the ESA allows the Service to permit taking that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity if the applicant has prepared a conservation plan for the species. These plans are commonly known as Habitat Conservation Plans (HCPs). Prepared by one or more non-Federal landowners with assistance of the Service, an HCP must contain measures that minimize and mitigate incidental take of a threatened or endangered species. If the Service determines that the HCP meets the issuance criteria defined in section 10(a)(2)(B) of the ESA, the Service will issue an incidental take permit authorizing limited take incidental to the planned activity, provided that the conditions of the approved HCP and permit are adhered to.

The permit and plan are flexible tools available to landowners to help gain compliance with ESA Section 9 and 50 CFR 17.3 regulations. If your client performs any ground disturbing activity on Long Point before finalizing a HCP and receiving an incidental take permit, the group risks violation of Section 9 of the ESA via take and harm caused to Lake Erie water snakes without an ESA incidental take permit. Therefore, we recommend that your client develop a HCP and apply for an incidental take permit under Section 10(a)(1)(B) of the ESA.

We understand that Predevelopment Ltd. has also been discussing a potential land swap on Long Point with the Cleveland Museum of Natural History. If this land exchange is agreed upon, project plans change, or if portions of the proposed project were not evaluated, it is our recommendation that you contact our office for further review of the proposed project. We remain open to any future changes in the project which benefit the LEWS and the natural integrity of Long Point, especially if the changes are agreed to by all parties involved (e.g., Predevelopment Ltd. and the Cleveland Museum of Natural History).

We are willing to meet with you to discuss the HCP process. Furthermore, we are willing to work with all parties on dealing with the effects of a land exchange. For your information, we have enclosed a copy of the ESA, 50 CFR 17.3, and a fact sheet with answers to frequently asked questions about HCPs and the incidental take permitting process.

We appreciate your continuing efforts to coordinate with us to address the needs of Lake Erie water snakes on Long Point, Kelleys Island. We look forward to working with you to conserve the LEWS. Please feel free to call us with any questions you may have.

Sincerely,



Mary Knapp, Ph.D.  
Supervisor

enclosures (3)



Ohio Historic Preservation Office

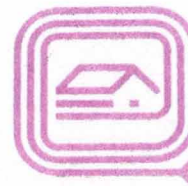
567 East Hudson Street  
Columbus, Ohio 43211-1030  
614/ 298-2000 Fax: 614/ 298-2037

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Reynoldsburg, Ohio



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December 21, 2004

Charles E. Herdendorf, Ph.D.  
Garfield Farms  
4921 Detroit Road  
Sheffield Village, OH 44054

Re: Predevelopment Proposed Development on Long Point  
Kelleys Island, Erie County, Ohio

Dear Dr. Herdendorf,

This is in response to correspondence from your office dated October 28, 2004 (received November 4) regarding the above referenced project. The comments of the Ohio Historic Preservation Office (OHPO) are submitted in accordance with provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 [36 CFR 800]).

The correspondence provides requested discussion of effects from the proposed project on identified properties. Also, additional information on project coordination was provided by Louis F. Sharpe with correspondence dated November 1, 2004. Identification level survey in and around the project area has resulted in the identification of six properties: ERI-1664-1, 33-ER-481, 33-ER-488, 33-ER-521, 33-ER-522, and the Kelleys Island Historic District. The proposed project will entail construction of a lodge within the area containing archaeological site 33-ER-522 and the construction of a dock near archaeological sites 33-ER-481 and 33-ER-488, with the short driveway connecting the dock and lodge extending past site 33-ER-521, and architectural property ERI-1664-1. Archaeological site 33-ER-522 is interpreted as a concentration of lithic debris likely resulting from one or more events related to the initial stages of lithic reduction for tool making. Based on the information presented in your report and additional discussion we concur that this archaeological site doesn't contribute materially to our understanding of the archaeological record for the prehistoric period for Kelleys Island. We also agree that further archaeological field work is not warranted at this site. Based on the information presented in your report and additional discussion we agree with Predevelopment's plans to preserve archaeological sites 33-ER-481 (*Steam Barge Adventure*), 33-ER-488 (*Scow Schooner W.R. Hanna*), 33-ER-521 (*Joseph Lincoln House site*), and ERI-1664-1 (*Lincoln Stone Wall*) through design restrictions, and during construction and use of the project area to avoid impacts to these four properties.

The project will be constructed in the Kelleys Island Historic District, a property listed in the National Register of Historic Places. The addition of new elements has the potential to affect qualities and characteristics that make this historic district significant. The proposed lodge location is not in proximity to any of the many identified buildings that are contributing elements to the Kelleys Island Historic District. In our opinion the proposed lodge will not detract from or otherwise diminish qualities and characteristics that make the Kelleys Island Historic District significant. We remain concerned about the cumulative effects on the historic district from continuing construction. There is

Dr. Charles E. Herdendorf.  
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the potential for high density construction of larger structures to intrude into the rural setting of Kelleys Island to the extent that the total effect of new construction overwhelms portions of the historic district and diminishes our abilities to observe and understand the historic architecture and its setting.

The construction of docks along the coastline also has the potential to have a cumulative effect. Long sections of undeveloped shoreline along portions of Kelleys Island maintain a rural setting in keeping with the period of significance of the historic district and thus contribute to our ability to appreciate and interpret the historic district. The proposed dock for this development appears larger than necessary for the proposed lodge. Even with widely spaced intrusions along the coast line, we believe that the appearance of the coastline and the relationships between the buildings and various industries that unfolded on Kelleys Island during the period of significance of the historic district retains integrity. Given our considerations, we do not believe that the first construction of a dock along this section of the coastline, even at the size of the proposed dock, will so detract from the rugged appearance of the coastline that it will diminish the qualities that make the Kelleys Island Historic District significant.

For these reasons, we agree with your findings that the proposed Predevelopment project will not adversely effect any property that is listed or eligible for listing in the National Register of Historic Places.

Please feel at liberty to contact me with any questions concerning this matter at (614) 298-2000, between the hours of 8 am. to 5 pm. or by email at dsnyder@ohiohistory.org. Thank you for your cooperation.

Sincerely,



David Snyder, Archaeology Reviews Manager  
Resource Protection and Review